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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/069,703	04/29/1998	GILLES H. TAPOLSKY	VIRO:034	3665
25226	7590	12/23/2003	EXAMINER	
MORRISON & FOERSTER LLP 755 PAGE MILL RD PALO ALTO, CA 94304-1018			WEBMAN, EDWARD J	
			ART UNIT	PAPER NUMBER
			1617	
DATE MAILED: 12/23/2003				

Please find below and/or attached an Office communication concerning this application or proceeding.



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EXAMINER

ART UNIT	PAPER NUMBER
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12/13/03

DATE MAILED:

This is a communication from the examiner in charge of your application.
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OFFICE ACTION SUMMARY

☒ Responsive to communication(s) filed on 10/31/03☐ This action is **FINAL**.☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 D.C. 11; 453 O.G. 213.A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

- ☒ Claim(s) 1-3, 5-10, 12, 13, 15-18, 33-34 is/are pending in the application.
Of the above, claim(s) _____ is/are withdrawn from consideration.
- ☐ Claim(s) _____ is/are allowed.
- ☒ Claim(s) 1-3, 5-9, 12, 13, 15, 17, 18, 34 is/are rejected.
- ☒ Claim(s) 10, 13, 16, 33 is/are objected to.
- ☐ Claim(s) _____ are subject to restriction or election requirement.

Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- ☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- ☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been
- ☐ received.
- ☐ received in Application No. (Series Code/Serial Number) _____.
- ☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

- ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

- ☒ Notice of Reference Cited, PTO-892
- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____
- ☐ Interview Summary, PTO-413
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Notice of Informal Patent Application, PTO-152

--SEE OFFICE ACTION ON THE FOLLOWING PAGES--

Art Unit: 1617

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-3, 5-6, 9, 12, 15, 17-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Takayanagi et al. In view of Ventouras.

Takayanagi et al teach a slow release medical tape for oral mucosa comprising a support layer and a medical layer composed of a water-soluble polymer (abstract); PVP, sodium polyacrylate, and carboxyl cellulose are specified (column methyl 2 lines 61-64). A second swellable polymer, such as hydroxypropyl cellulose, is specified (column 3 lines 61-64). The medicament layer may be composed of two or more layers (column 3 lines 18-19). One or more water-soluble polymers are disclosed (column 2 line 68 column 3 line 2). Methylcellulose is specified (column 2 lines 65-66). Dissolution time may be varied by proper selection of polymers (column 3, lines 29-33) anti-inflammatory steroids are disclosed (column 2 lines 48-53). A 200 um thickness is specified (column 3, lines 15-16).

It would have been obvious to one of ordinary skill to make a slow release tape comprising two layers in view of Takayanagi et al. As to the claimed hydroxyethyl cellulose, Ventouras et al teach the equivalence of hydroxypropyl cellulose and hydroxy ethyl cellulose as swellable polymers (column 1 lines 48-52).

Claims 1-3, 5-9, 12, 15, 17-19, 34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Takayanagi et al in view of Ventouras as applied to claim WO

95/05416 (WO '416) and EPA 250187 (EPA '187) above, and further in view of Takayanagi et al In view of Ventouras is discussed above.

WO '416 teaches overlaying an adhesive layer to prevent leakage of active from edges (page 30 lines 16-24).

EPA '187 teaches an intra-oral film (Title). Flavors are disclosed as customary (page 4, lines 41-43).

It would have been obvious to one of ordinary skill to overlay an adhesive layer in Takayanagi et al to achieve the beneficial effect of preventing Leakage of active from edges in view of WO '416 and to add a flavor as a customary additive in intra-oral films in view of EPA '187.

Claims 1-9, 12, 15, 17-19, 34 are rejected.

Claims 10, 13, 16, 33 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Edward J. Webman whose telephone number is 308-4432. The examiner can normally be reached on Monday-Friday 9am-5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, S. Padmanabhan can be reached on 305-1877. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.


Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 308-1234.

Application/Control Number: 09/069,703
Art Unit: 1617

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Webman/tgd

December 18, 2003


EDWARD J. WEBMAN
PRIMARY EXAMINER
GROUP 1500